

1 HOUSE BILL NO. 196

2 INTRODUCED BY M. LANGE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A COAL DEVELOPMENT IMPACT ACCOUNT;
5 ALLOCATING COAL SEVERANCE TAX MONEY TO THE COAL DEVELOPMENT IMPACT ACCOUNT;
6 ~~REQUIRING AUTHORIZING~~ THE COAL BOARD TO ALLOCATE FUNDS FOR GOVERNMENT FACILITIES
7 ADVERSELY IMPACTED BY THE DEVELOPMENT OF COAL RESOURCES; AUTHORIZING ALLOCATIONS
8 TO STATE AGENCIES FOR OTHER IMPACTS; REQUIRING THE COAL BOARD TO PROVIDE A REPORT TO
9 THE LEGISLATURE; AMENDING SECTIONS 15-35-108, 90-6-205, 90-6-207, AND 90-6-209, MCA; AND
10 PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13

14 **Section 1.** Section 15-35-108, MCA, is amended to read:15 **"15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter
16 must, in accordance with the provisions of 15-1-501, be allocated as follows:17 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,
18 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under
19 17-6-203(6) and invested by the board of investments as provided by law.20 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program
21 account established in 17-7-205.22 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated
23 by the legislature for provision of basic library services for the residents of all counties through library federations
24 and for payment of the costs of participating in regional and national networking, conservation districts, and the
25 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.
26 Money may not be transferred from this account to another account other than the general fund. Any unreserved
27 fund balance at the end of each fiscal year must be deposited in the general fund.28 (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks
29 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,
30 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas

1 described in 23-1-102.

2 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable
3 resource loan debt service fund.

4 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art
5 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding
6 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other
7 cultural and aesthetic projects.

8 (7) The amount of 2.9% must be credited to the oil, gas, and coal natural resource account established
9 in 90-6-1001.

10 (8) The amount of \$2 million 2.71% 0.16% must be allocated to the coal development impact account
11 established by [section 2].

12 ~~(8)(9)~~ (a) Subject to subsection ~~(8)(b)~~ (9)(b), all other revenue from severance taxes collected under the
13 provisions of this chapter must be credited to the general fund of the state.

14 (b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited
15 in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

16 (i) \$65,000 to the cooperative development center;

17 (ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

18 (iii) \$3.65 million to the research and commercialization state special revenue account created in
19 90-3-1002;

20 (iv) to the department of commerce:

21 (A) \$125,000 for a small business development center;

22 (B) \$50,000 for a small business innovative research program;

23 (C) \$425,000 for certified regional development corporations;

24 (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

25 and

26 (E) \$300,000 for export trade enhancement. (Terminates June 30, 2010--sec. 6, Ch. 481, L. 2003.)

27 **15-35-108. (Effective July 1, 2010) Disposal of severance taxes.** Severance taxes collected under
28 this chapter must, in accordance with the provisions of 15-1-501, be allocated as follows:

29 (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX,
30 section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under

1 17-6-203(6) and invested by the board of investments as provided by law.

2 (2) The amount of 12% of coal severance tax collections is allocated to the long-range building program
3 account established in 17-7-205.

4 (3) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated
5 by the legislature for provision of basic library services for the residents of all counties through library federations
6 and for payment of the costs of participating in regional and national networking, conservation districts, and the
7 Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account.
8 Money may not be transferred from this account to another account other than the general fund. Any unreserved
9 fund balance at the end of each fiscal year must be deposited in the general fund.

10 (4) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks
11 acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses,
12 must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas
13 described in 23-1-102.

14 (5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable
15 resource loan debt service fund.

16 (6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art
17 in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding
18 unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other
19 cultural and aesthetic projects.

20 (7) The amount of 2.9% must be credited to the oil, gas, and coal natural resource account established
21 in 90-6-1001.

22 (8) The amount of \$2 million 2.71% 0.16% must be allocated to the coal development impact account
23 established by [section 2].

24 ~~(8)~~(9) All other revenue from severance taxes collected under the provisions of this chapter must be
25 credited to the general fund of the state."

26
27 **NEW SECTION. Section 2. Coal development impact account established -- REPORT.** (1) There is
28 a coal development impact account in the state special revenue fund. Funds in the account may only be allocated
29 pursuant to 90-6-205(2) and (3). Unallocated funds, interest earnings, and miscellaneous revenue must be
30 retained in the account.

1 (2) THE COAL BOARD SHALL REPORT TO THE LEGISLATURE, AS PROVIDED IN 5-11-210, ON THE ALLOCATION OF
 2 FUNDS FROM THE COAL DEVELOPMENT IMPACT ACCOUNT.

3
 4 **Section 3.** Section 90-6-205, MCA, is amended to read:

5 **"90-6-205. Coal board -- general powers. (1)** The board may:

6 ~~(1)(a)~~ retain professional consultants and advisors;

7 ~~(2)(b)~~ adopt rules governing its proceedings;

8 ~~(3)(c)~~ consider applications for grants from available funds;

9 ~~(4)(d)~~ award grants, subject to 90-6-207, from available funds:

10 ~~(a)(i)~~ to local governmental units, state agencies, and governing bodies of federally recognized Indian
 11 tribes to assist local governmental units and federally recognized Indian tribes in meeting the local impact of coal
 12 development or a major decline in coal mining or in the operation of coal-using energy complexes by enabling
 13 them to adequately provide governmental services and facilities that are needed as a direct consequence of an
 14 increase or decrease in coal development or in the consumption of coal by a coal-using energy complex; and

15 ~~(b)(ii)~~ notwithstanding the provisions of 90-6-207, to the department of transportation, established in
 16 2-15-2501, to expedite the construction, repair, and maintenance of deficient sections of highway within the area
 17 designated in 90-6-210 if the deficiency is the direct result of increased traffic accompanying the development
 18 of coal resources; and

19 ~~(5)(e)~~ award a grant to a local governmental unit for the purpose of paying for part or all of the credit that
 20 the local governmental unit is obligated to give to a major new industrial facility that has prepaid property taxes
 21 under 15-16-201. The board shall award the grant in accordance with 90-6-206.

22 (2) The board shall MAY allocate funds from the coal development impact account provided for in [section
 23 2] for:

24 ~~(a) any damages incurred by a government facility from impacts related to the development of coal~~
 25 ~~resources, including but not limited to damages caused by construction or operation of a railroad line;~~

26 ~~(b) the cost, including land purchase, to relocate a government facility that is adversely impacted by the~~
 27 ~~development of coal resources, including but not limited to impacts caused by construction or operation of a~~
 28 ~~railroad line.~~

29 (3) The board may allocate funds from the coal development impact account provided for in [section 2]
 30 to state agencies to:

1 (a) mitigate impacts on wildlife or wildlife habitat related to the development of coal resources, including
 2 but not limited to impacts caused by construction or operation of a railroad line.

3 (b) pay for mitigation by a state agency of impacts related to the development of coal resources, including
 4 but not limited to impacts caused by construction or operation of a railroad line, to a landowner."

5

6 **Section 4.** Section 90-6-207, MCA, is amended to read:

7 **"90-6-207. Priorities for impact grants.** (1) The department of commerce shall biennially designate:

8 (a) each county, incorporated city and town, school district, and other governmental unit that has had
 9 or expects to have as a result of the impact of coal development a net increase or decrease in estimated
 10 population of at least 10% over one of the 3-year periods specified in subsection (4);

11 (b) each county and all local governmental units within each county in which:

12 (i) a mining permit in accordance with the Montana Strip and Underground Mine Reclamation Act has
 13 been granted by the department of environmental quality for a project within the county that will establish a new
 14 coal mine to produce at least 300,000 tons a year and that the department of commerce determines will
 15 commence production within 2 years;

16 (ii) the department of commerce has determined that the production of an existing mine will increase or
 17 decrease by at least 1 million tons a year and that the new, expanded, or reduced production will commence
 18 within 2 years of the designation;

19 (iii) a newly constructed railroad serves a new, existing, or expanding coal mine; or

20 (iv) an air quality permit has been issued by the department of environmental quality for a new
 21 steam-generating or other new coal-burning facility that will consume at least 1 million tons a year of
 22 Montana-mined coal and for which the department of commerce determines the construction or operation will
 23 commence within 2 years of the designation;

24 (c) each local governmental unit located within 100 miles, measured over the shortest all-weather public
 25 road, of a mine or facility qualifying under subsection (1)(b)(i), (1)(b)(ii), or (1)(b)(iv); and

26 (d) each local governmental unit in which:

27 (i) a mine that has produced 300,000 tons or more of coal a year has ceased all significant mining or is
 28 scheduled to cease within 1 year; or

29 (ii) a steam-generating or other coal-burning facility that has operated under an air quality permit issued
 30 by the department of environmental quality and that has consumed at least 1 million tons of Montana-mined coal

1 a year has closed or is scheduled to close within 1 year.

2 (2) Designation under subsection (1) of:

3 (a) any local governmental unit extends to and includes as a designated unit the county in which it is
4 located; and

5 (b) a county extends to and includes as a designated unit any local governmental unit in the county that
6 contains at least 10% of the total population of the county.

7 (3) Except as provided in 90-6-205(4)(b)(1)(d)(ii), the board may not award more than 50% of the funds
8 appropriated to it each year for grants to governmental units and state agencies for meeting the needs caused
9 by an increase or decrease in coal development or in the consumption of coal by a coal-using energy complex
10 to local governmental units other than those governmental units designated under subsection (1).

11 (4) For the purposes of subsection (1), the department of commerce shall use five 3-year periods as
12 follows:

13 (a) one consecutive 3-year period ending 2 calendar years prior to the current calendar year;

14 (b) one consecutive 3-year period ending 1 calendar year prior to the current calendar year;

15 (c) one consecutive 3-year period ending with the current calendar year;

16 (d) one consecutive 3-year period ending 1 calendar year after the current calendar year; and

17 (e) one consecutive 3-year period ending 2 calendar years after the current calendar year.

18 (5) Attention should be given by the board to the need for community planning before the full impact is
19 realized. Applicants should be able to show how their request reasonably fits into an overall plan for the orderly
20 management of the existing or contemplated growth or decline problems.

21 (6) All funds appropriated under this part are for use related to local impact.

22 (7) All designations based on an increase in coal development or in the consumption of coal by a
23 coal-using energy complex made under subsection (1)(a), (1)(b), or (1)(c) must be for 1 year. A designation may
24 not continue after the department of commerce determines that the mine, railroad, or facility that provided the
25 basis for a designation is contributing sufficient tax revenue to the designated governmental unit to meet the
26 increased costs of providing the services necessitated by the development of the mine, railroad, or facility.
27 However, nondesignated local governmental units continue to be eligible for coal impact grants of not more than
28 50% of the funds appropriated to the board for grants in circumstances in which an impact exists in a community
29 or area directly affected by:

30 (a) the operation of a coal mine or a coal-using energy complex; or

1 (b) the cessation or reduction of coal mining activity or of the operation of a coal-using energy complex."

2

3 **Section 5.** Section 90-6-209, MCA, is amended to read:

4 **"90-6-209. Limitations on grants.** (1) The board may commit itself to the expenditure of funds for more
5 than 1 year for a single project, but the board may not obligate funds not yet appropriated by the legislature. The
6 total amount of grants to state agencies, except grants made pursuant to 90-6-205~~(4)(b)(1)(d)(ii)~~, and Indian tribes
7 may not exceed 7% of the total money allocated to the board during each fiscal year.

8 (2) A grant to an Indian tribe under 90-6-205 may not be approved by the board unless:

9 (a) the governing body of the tribe has agreed:

10 (i) to waive its immunity from suit on any issue specifically arising from the transaction of a grant obtained
11 under this part; and

12 (ii) to the adjudication of any dispute arising out of the grant transaction in the district court of the first
13 judicial district of the state of Montana; and

14 (b) approval of the transaction has been obtained from the secretary of the United States department
15 of the interior whenever approval is necessary."

16

17 NEW SECTION. **Section 6. Codification instruction.** [Section 2] is intended to be codified as an
18 integral part of Title 90, chapter 6, part 2, and the provisions of Title 90, chapter 6, part 2, apply to [section 2].

19

20 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2007.

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22 NEW SECTION. **SECTION 8. TERMINATION.** [SECTION 1] TERMINATES JUNE 30, 2010.

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